

Senate Bill No. 798

CHAPTER 367

An act to add and repeal Sections 17053.86 and 23686 of the Revenue and Taxation Code, relating to student financial aid, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2014. Filed with
Secretary of State September 16, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 798, De León. Income taxes: credits: contributions to education funds.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill, under both laws, for taxable years beginning on or after January 1, 2014, and before January 1, 2017, would allow a credit equal to a certain percentage of a contribution to the College Access Tax Credit Fund, established by this bill, for specified education purposes, as provided. The bill would specify that the aggregate amount of credit that may be allocated under both laws shall not exceed \$500,000,000 for each calendar year, as specified, and would require the California Educational Facilities Authority to perform certain duties with regard to allocating and certifying the tax credits allowed under these provisions.

This bill would become operative only if SB 174 of the 2013–14 Regular Session is enacted and takes effect on or before January 1, 2015.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 17053.86 is added to the Revenue and Taxation Code, to read:

17053.86. (a) (1) For taxable years beginning on or after January 1, 2014, and before January 1, 2017, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount equal to the following:

(A) For each taxable year beginning on and after January 1, 2014, and before January 1, 2015, 60 percent of the amount contributed by the taxpayer for the 2014 taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(B) For each taxable year beginning on and after January 1, 2015, and before January 1, 2016, 55 percent of the amount contributed by the taxpayer for the 2015 taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(C) For each taxable year beginning on and after January 1, 2016, and before January 1, 2017, 50 percent of the amount contributed by the taxpayer for the 2016 taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(2) Contributions shall be made only in cash.

(b) (1) The aggregate amount of credit that may be allocated and certified pursuant to this section and Section 23686 shall be an amount equal to the sum of all of the following:

(A) Five hundred million dollars (\$500,000,000) in credits for the 2014 calendar year and each calendar year thereafter.

(B) The amount of previously unallocated and uncertified credits.

(2) (A) For purposes of this section, the California Educational Facilities Authority shall do all of the following:

(i) On or after January 1, 2014, and before January 1, 2017, allocate and certify tax credits to taxpayers under this section.

(ii) Establish a procedure for taxpayers to contribute to the College Access Tax Credit Fund and to obtain from the California Educational Facilities Authority a certification for the credit allowed by this section. The procedure shall require the California Educational Facilities Authority to certify the contribution amount eligible for credit within 45 days following receipt of the contribution.

(iii) Provide to the Franchise Tax Board a copy of each credit certificate issued for the calendar year by March 1 of the calendar year immediately following the year in which those certificates are issued.

(B) (i) The California Educational Facilities Authority shall adopt any regulations necessary to implement this paragraph.

(ii) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any regulation adopted by the California Educational Facilities Authority pursuant to clause (i).

(c) (1) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding five years if necessary, until the credit is exhausted.

(2) A deduction shall not be allowed under this part for amounts taken into account under this section in calculating the credit allowed by this section.

(d) (1) The College Access Tax Credit Fund is hereby created as a special fund in the State Treasury. All revenue in this special fund shall be allocated as follows:

(A) First to the General Fund in an amount equal to the aggregate amount of certified credits allowed pursuant to this section and Section 23686 for the taxable year. Funds allocated to the General Fund shall be considered General Fund revenues for purposes of Sections 8 and 8.5 of Article XVI of the California Constitution.

(B) Second, upon appropriation, as follows:

(i) To the Franchise Tax Board, the California Educational Facilities Authority, the Controller, and the Student Aid Commission for

reimbursement of all administrative costs incurred by those agencies in connection with their duties under this section, Section 23686, and Section 69432.7 of the Education Code.

(ii) To the Student Aid Commission for purposes of awarding Cal Grants to students pursuant to Section 69431.7 of the Education Code.

(2) The tax credit allowed by subdivision (a) of this section and subdivision (a) of Section 23686 for donations to the College Access Tax Credit Fund shall be known as the College Access Tax Credit.

(e) This section shall remain in effect only until December 1, 2017, and as of that date is repealed.

SEC. 2. Section 23686 is added to the Revenue and Taxation Code, to read:

23686. (a) (1) For each taxable year beginning on or after January 1, 2014, and before January 1, 2017, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the following:

(A) For taxable years beginning on and after January 1, 2014, and before January 1, 2015, 60 percent of the amount contributed by the taxpayer for the 2014 taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(B) For taxable years beginning on and after January 1, 2015, and before January 1, 2016, 55 percent of the amount contributed by the taxpayer for the 2015 taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(C) For taxable years beginning on and after January 1, 2016, and before January 1, 2017, 50 percent of the amount contributed by the taxpayer for the 2016 taxable year to the College Access Tax Credit Fund, as allocated and certified by the California Educational Facilities Authority.

(2) Contributions shall be made only in cash.

(b) (1) The aggregate amount of credit that may be allocated and certified pursuant to this section and Section 17053.86 shall be an amount equal to the sum of all of the following:

(A) Five hundred million dollars (\$500,000,000) for the 2014 calendar year and each calendar year thereafter.

(B) The amount of previously unallocated and uncertified credits.

(2) (A) For purposes of this section, the California Educational Facilities Authority shall do all of the following:

(i) On or after January 1, 2014, and before January 1, 2017, allocate and certify tax credits to taxpayers under this section.

(ii) Establish a procedure for taxpayers to contribute to the College Access Tax Credit Fund and to obtain from the California Educational Facilities Authority a certification for the credit allowed by this section. The procedure shall require the California Educational Facilities Authority to certify the contribution amount eligible for credit within 45 days following receipt of the contribution.

(iii) Provide to the Franchise Tax Board a copy of each credit certificate issued for the calendar year by March 1 of the calendar year immediately following the year in which those certificates are issued.

(B) (i) The California Educational Facilities Authority shall adopt any regulations necessary to implement this paragraph.

(ii) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any regulation adopted by the California Educational Facilities Authority pursuant to clause (i).

(c) (1) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding five years if necessary, until the credit is exhausted.

(2) A deduction shall not be allowed under this part for amounts taken into account under this section in calculating the credit allowed by this section.

(d) This section shall remain in effect only until December 1, 2017, and as of that date is repealed.

SEC. 3. This act shall become operative only if Senate Bill 174 of the 2013–14 Regular Session is enacted and takes effect on or before January 1, 2015.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

As our state economy is recovering, it is important to provide adequate funding to the Cal Grant B Access awards beginning in the 2015–16 academic year so that these students can stay enrolled, it is therefore necessary that this act take effect immediately so that contributions can be made to the College Access Tax Credit Fund in 2014.